

# HOUSE . . . . . No. 4234

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## The Commonwealth of Massachusetts

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DEVAL L. PATRICK  
GOVERNOR

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LIEUTENANT GOVERNOR

EXECUTIVE DEPARTMENT  
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July 19, 2007.

To the Honorable Senate and House of Representatives:

I am filing for your consideration the attached legislative proposal, entitled, "An Act providing for the Investment In and Expansion of the Life Sciences Industry in the Commonwealth."

This bill will implement a comprehensive life sciences program for Massachusetts to support and stimulate research and manufacturing, and strengthen the Commonwealth's continued global leadership in life sciences. Alongside our commercial success, dedicated, passionate researchers and medical practitioners have made our Commonwealth the international center for the development of cures against diseases that afflict millions around the globe.

To remain competitive with states and nations that are investing billions of dollars in these areas, the proposed legislation will: expand and strengthen the Massachusetts Life Sciences Center by providing \$500 million in bond funding for capital projects; strengthen our world-class life sciences talent pool by appropriating \$15 million to the Massachusetts Life Sciences Investment Fund for fellowships, research grants and loans, and workforce training programs; and, establish a Life Sciences Sector Investment Incentive Program which certifies life sciences sector projects and awards tax incentives to businesses that locate or stay in Massachusetts and grow jobs and imposes a yearly evaluation to ensure that projects achieve their projected return on investment.

This bill is an important step in creating jobs and growing the Massachusetts economy. The initiatives contained in this legislation will assist the private sector, academia and the research community in reaffirming the position of the Commonwealth as the international home of the life sciences. Accordingly, I urge your early and favorable consideration of this bill to help stimulate our economy, bring and keep researchers and resources together here in Massachusetts to make the next great discoveries in the world of medicine, and accelerate our global leadership in this field.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Deval Patrick', with a large, sweeping initial 'D'.

DEVAL L. PATRICK,  
*Governor.*

**The Commonwealth of Massachusetts**

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In the Year Two Thousand and Seven.

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AN ACT PROVIDING FOR THE INVESTMENT IN AND EXPANSION OF THE LIFE  
SCIENCES INDUSTRY IN THE COMMONWEALTH.

1     *Whereas*, The deferred operation of this act would tend to  
2     defeat its purpose, which is to provide forthwith for the immediate  
3     capital improvement needs of the Commonwealth, therefore it is  
4     hereby declared to be an emergency law, necessary for the imme-  
5     diate preservation of the public convenience.

*Be it enacted by the Senate and House of Representatives in General  
Court assembled, and by the authority of the same, as follows:*

1     SECTION 1. The general court finds and declares that:—

2     (1) promoting the economic viability and public health of the  
3     Commonwealth are fundamental purposes of state government;

4     (2) it is imperative for the purposes of the Commonwealth's  
5     economic competitiveness that the Commonwealth make the  
6     investment in life sciences research and manufacturing a priority  
7     to leverage revenues and to encourage collaboration and innova-  
8     tion among public and private institutions involved in life sci-  
9     ences research and related applications;

10    (3) further investment in the life sciences sector will also lead  
11    to new cures and treatments which may benefit all of society;

12    (4) the investments of the life sciences sector are intended to  
13    support Massachusetts's global leadership in life sciences-related  
14    research, innovations, commercialization, manufacturing and  
15    employment; and

16    (5) the purpose of this chapter is to establish a comprehensive  
17    life sciences program for the Commonwealth, which would both  
18    support and stimulate research and manufacturing in this sector.

1     SECTION 2. To provide for a program of capital improvements  
2     to be undertaken by the Massachusetts Life Sciences Center estab-  
3     lished under Chapter 231, the sum set forth in Section 3 of this act,

4 for the several purposes and subject to the conditions specified in  
 5 this act, is hereby made available, subject to the laws regulating  
 6 the disbursement of public funds, which sum is in addition to any  
 7 other amounts previously appropriated for these purposes.

1 SECTION 3.

**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.**

*Massachusetts Life Sciences Center.*

|           |   |             |
|-----------|---|-------------|
| 7007-9037 | For capital projects to be undertaken by the Life Sciences Center, including the preparation of plans and specifications, acquisition, construction, renovation, reconstruction, alteration, improvement, demolition, expansion and repair, of land and facilities, and for the acquisition of furnishings and equipment, all as the Life Sciences Center shall determine, for the purpose of carrying out any of its purposes set forth in Chapter 23I ..... | 500,000,000 |
|-----------|---|-------------|

1 SECTION 4. To meet the expenditures necessary in carrying  
 2 out Section 3 of this act, the state treasurer shall, upon request of  
 3 the governor, issue and sell bonds of the Commonwealth in an  
 4 amount to be specified by the governor from time to time but not  
 5 exceeding, in the aggregate, \$500,000,000. All bonds issued by  
 6 the Commonwealth as aforesaid shall be designated on their face,  
 7 Life Sciences Center Capital Improvement Loan Act of 2007, and  
 8 shall be issued for a maximum term of years, not exceeding 30  
 9 years, as the governor may recommend to the general court under  
 10 Section 3 of Article LXII of the Amendments to the Constitution.  
 11 All such bonds shall be payable not later than June 30, 2042. All  
 12 interest and payments on account of principal on these obligations  
 13 shall be payable from the General Fund. Bonds and interest  
 14 thereon issued under this Section shall be general obligations of  
 15 the Commonwealth.

1 SECTION 5. In carrying out Section 3 of this act, in addition to  
 2 its powers under Chapter 23I, the Massachusetts Life Sciences  
 3 Center may enter into such contracts or agreements as the Center  
 4 may determine to be necessary or desirable to carry out its pur-  
 5 poses under Chapter 23I and Section 2 of this act with other state,  
 6 local or regional public agencies or authorities, and such agencies  
 7 and authorities are hereby authorized to enter into any such con-

8 tracts or agreements with the Center as may be necessary or desir-  
9 able to permit the Center to carry out its purposes under Chapter  
10 23I and Section 3 of this act. The agreements may relate to such  
11 matters as the Center shall determine including, without limita-  
12 tion, the acquisition of real and personal property or any interest  
13 therein, and the design, layout, construction, reconstruction or  
14 management of construction of all or any portion of such projects.  
15 In relation to any such agreements between the Center and other  
16 state agencies or authorities, the Center may advance monies to  
17 the agencies or authorities, without prior expenditure by the agen-  
18 cies or authorities, and the agencies and authorities may accept  
19 monies necessary to carry out such agreements; provided, how-  
20 ever, that (i) the Center shall certify to the comptroller the  
21 amounts so advanced; (ii) such agreements shall contain provi-  
22 sions satisfactory to the Center for the accounting of such monies  
23 as expended by the agency or authority; and (iii) all monies not  
24 expended under any such agreement shall be credited to the  
25 account of the Center from which they were advanced.

1 SECTION 6. Notwithstanding any general or special law to the  
2 contrary, 10 days after the effective date of this act, the comp-  
3 troller shall make a one-time transfer of \$15,000,000 from the  
4 General Fund to the Massachusetts Life Sciences Investment Fund  
5 as established in Section 5 of Chapter 23I of the General Laws.  
6 The transfer shall be effective June 30, 2007.

1 SECTION 7. Chapter 23A of the General Laws is hereby  
2 amended by adding after Section 62 the following section:—

3 Section 63. Massachusetts Life Sciences Sector Incentive Program.

4 (a) Definitions. As used in Section 63, the following words  
5 shall, unless the context clearly requires otherwise, have the  
6 following meanings:—

7 “Affiliate”, any business which directly or indirectly controls or  
8 is controlled by or is under direct or indirect common control with  
9 another business, including, but without limitation, any business  
10 with whom a business is merged or consolidated, or which pur-  
11 chases all or substantially all of the assets of a business.

12 “Business”, a business corporation, partnership, firm, unincor-  
13 porated association or other entity engaging or proposing to

14 engage in economic activity within the Commonwealth, and any  
15 affiliate thereof, which is, or the members of which are, subject to  
16 taxation under Chapter 62 or Chapter 63.

17 “Business incubator”, a facility which:— (i) provides small  
18 units of space, shared support services, or financing and manage-  
19 ment assistance to new and established businesses; or (ii) is cre-  
20 ated and operated for the principal purpose of addressing  
21 conditions of unemployment and economic distress by encour-  
22 aging the creation of new businesses and improving their ability to  
23 survive and grow.

24 “Certified life sciences project”, a project that has been  
25 approved by the secretary of housing and economic development  
26 for participation in the life sciences sector incentive program pur-  
27 suant to the provisions of this section.

28 “Control”, the power to direct the management and policies of a  
29 business or a facility thereof, directly or indirectly, through the  
30 exercise of voting rights, by contract, or otherwise.

31 “Facility”, the physical location, in real property owned or  
32 leased by a life sciences sector business, of a commercial or  
33 industrial activity, division or component controlled by a life sci-  
34 ences sector business, or any real estate project which involves the  
35 construction or renovation of real property to serve such purpose,  
36 or any combination of the foregoing, at which are employed, or  
37 are projected to be employed, permanent full-time employees of a  
38 life sciences sector business.

39 “Life sciences”, advanced and applied sciences, including but  
40 not limited to, regenerative medicine, biotechnology, biopharma-  
41 ceuticals, nanotechnology, and medical devices.

42 “Life sciences sector business,” a life sciences business located  
43 in the Commonwealth and engaged in research, development or  
44 manufacturing.

45 “Life sciences sector incentive program” or “LSSIP”, a pro-  
46 gram designed to promote increased life sciences sector develop-  
47 ment and expansion in the Commonwealth, to be administered by  
48 the department of business development.

49 “Life sciences project”, that portion of a life sciences sector  
50 business consisting of a new or expanded facility that in its  
51 entirety, as of the project proposal date, is located in the Common-  
52 wealth and that:—

53 (i) increases the number of permanent full-time employees  
54 employed by the life sciences sector business within the Common-  
55 wealth; and

56 (ii) is not a replacement or relocation of permanent full-time  
57 employees employed by the life sciences sector business at any  
58 other facility located within the Commonwealth; and provided  
59 that in the case of a facility to be located within the Common-  
60 wealth after the project proposal date, the term “project” shall  
61 refer only to a facility which is:—

62 (1) the first facility of the life sciences sector business to be  
63 located within the Commonwealth; or

64 (2) a new facility of such business and not a replacement or  
65 relocation of an existing facility of such life sciences sector busi-  
66 ness located within the Commonwealth or expansion of an  
67 existing facility of the life sciences sector business which results  
68 in an increase in permanent full-time employees.

69 “Municipality”, a city or town in the Commonwealth or, in a  
70 case in which 2 or more cities or towns agree to act jointly for  
71 some purpose hereunder then, collectively, all cities and towns  
72 participating in such a collaborative agreement.

73 “Permanent full-time employee”, an individual who:— (i) at  
74 the inception of the employment relationship does not have a ter-  
75 mination date which is either a date certain or determined with  
76 reference to the completion of some specified scope of work; (ii)  
77 works no fewer than a minimum number of weekly hours as may  
78 be specified by the department by rule or regulation and (iii)  
79 receives employee benefits at least equal to those provided to  
80 other full-time employees of the life sciences sector business. The  
81 term “increase in the number of permanent full-time employees of  
82 the life sciences sector business employed by and at the project”  
83 shall be determined with reference to this definition.

84 “Project proposal”, a proposal submitted by a life sciences  
85 sector business to the department of business development pur-  
86 suant to Section 63 for designation of a project as a certified life  
87 sciences project that meets the following requirements:— (i) the  
88 proposal is submitted in a timely manner as determined by the  
89 department, in such form and with such information as is pre-  
90 scribed by the department, supported by independently verifiable  
91 information and signed under the penalties of perjury by a person

92 authorized to bind the life sciences sector business; (ii) the pro-  
93 posal includes specific targets by year of the number of additional  
94 or retained full time employees, the projected salaries for those  
95 employees, and the projected taxes generated pursuant to Chapter  
96 62 by those full time employees for each of the years for which  
97 the project may receive benefits pursuant to Chapters 62, 63, or  
98 64H; (iii) in the case of a project which as of the project proposal  
99 date is already located in the Commonwealth, such projected  
100 increase shall not be less than 25 percent over the subsequent 5-  
101 year period; and (iv) in the case of a project which is a new  
102 facility within the meaning of clause (ii) of the definition of life  
103 sciences project, such proposal shall include, in addition, the  
104 number of permanent full-time employees employed by the life  
105 sciences sector business at other facilities located in the Common-  
106 wealth.

107 “Project proposal date”, the date on which a project proposal is  
108 received by the department.

109 “Real estate project”, real property which, at a specified date  
110 subsequent to the project proposal date, there shall be initiated  
111 construction or renovation activity which, when completed, will  
112 result in an increase in the assessed value of such real property of  
113 at least 100 percent over the assessed value of such real property  
114 as of the project proposal date; provided, however, that in the case  
115 of a real estate facility which is a business incubator facility and  
116 which is designated to be a certified life sciences project pursuant  
117 to Section 63, each business which executes a binding lease for  
118 space in such incubator facility subsequent to the date at which  
119 the construction or renovation activity begins shall be eligible for  
120 designation in its own right as a certified life sciences project pur-  
121 suant to Section 63.

122 “Return on investment,” the tax pursuant to Chapter 62 gener-  
123 ated by permanent full-time employees of a life sciences project,  
124 which are either new or maintained because of a project, over the  
125 period for which project benefits are received.

126 (b) Powers and Duties.

127 (1) The department shall administer the life sciences sector  
128 incentive program and, in so doing, shall be empowered to exer-  
129 cise the following powers and duties:—



- 130 (i) promulgate rules and regulations and prescribe procedures to  
131 effectuate the purposes of Section 63;
- 132 (ii) review applications from life sciences sector businesses;
- 133 (iii) certify projects for participation in the life sciences sector  
134 incentive program and establish regulations for evaluating the pro-  
135 posals of such projects;
- 136 (iv) assist life sciences sector businesses in obtaining state and  
137 federal resources and assistance for such businesses within the  
138 Commonwealth;
- 139 (v) provide appropriate coordination with other state programs,  
140 agencies, authorities, and public instrumentalities to enable  
141 activity within the life sciences sector to be more effectively pro-  
142 moted by the Commonwealth;
- 143 (vi) monitor the implementation and operation of the life sci-  
144 ences sector incentive program; and
- 145 (vii) conduct a continual evaluation of the projects certified for  
146 participation in the life sciences sector incentive program.
- 147 (2) The director of the Massachusetts Life Sciences Center  
148 shall designate a staff person who shall serve as a liaison to the  
149 department and who shall regularly consult with the director of  
150 the department of business development and coordinate the efforts  
151 of the Center and department to further the purpose of this act.
- 152 (3) The department shall annually submit to the governor, the  
153 senate and the house ways and means committees, and the joint  
154 committee on economic development and emerging technologies,  
155 within 90 days after the end of its fiscal year, a complete report  
156 detailing all projects certified under the LSSIP.
- 157 (4) Two years after the project is certified as a LSSIP, and every  
158 2 years thereafter, the department shall prepare a report which  
159 evaluates the relative effectiveness of the LSSIP, and shall make  
160 recommendations to the secretary of housing and economic devel-  
161 opment as necessary or advisable to improve such effectiveness.  
162 Each such report shall be made available to the senate and house  
163 ways and means committees and to the joint committee on eco-  
164 nomic development and emerging technologies.
- 165 (c) Certified life sciences projects; proposals.
- 166 (1) The department may from time to time designate 1 or more  
167 projects as certified life sciences projects, and take any and all

168 actions necessary or appropriate thereto, upon completion of the  
169 following:—

170 (i) receipt by the department of a project proposal requesting  
171 such designation from the life sciences sector business, which  
172 includes the following:—

173 (A) a workable plan, with precise goals and objectives, by  
174 which the life sciences sector business proposes to achieve the  
175 return on investment, that is projected, including an estimate for  
176 every year of the number of permanent full-time employees  
177 retained or added, the average salaries of those employees, the  
178 projected taxable income pursuant to Chapter 62 generated by  
179 those employees, the year the business expects to add or retain the  
180 employees, and the method by which the business shall employ  
181 aggressive affirmative action goals, objectives and identification  
182 and recruitment techniques to attain new employees;

183 (B) documentation regarding an agreement, if any, between the  
184 life sciences sector business and area banking institutions by  
185 which the life sciences sector business agrees to establish 1 or  
186 more accounts in such banks and such banks agree to commit a  
187 specified percentage of the funds deposited in the accounts for  
188 loans made thereby to businesses pursuant to the Massachusetts  
189 capital access program established pursuant to Section 57 of  
190 Chapter 23A;

191 (C) if appropriate, documentation in the proposal that the pro-  
192 ject is a certified economic development incentive program pro-  
193 ject, pursuant to Section 3F of Chapter 23A;

194 (D) request for a designation of the project as a certified life  
195 sciences project for a specified number of years, which shall be  
196 not less than 5 years nor more than:— (i) 20 or (ii) the number of  
197 years remaining on the duration of the designation of the project  
198 as a certified economic development incentive program project,  
199 pursuant to Section 3F of Chapter 23A, whichever is less; and

200 (ii) findings made by the department, based on the project pro-  
201 posal, documents submitted therewith, and such additional inves-  
202 tigation as the department shall make, and incorporate in its  
203 approval, that:—

204 (A) the project proposal complies with the definition, all other  
205 applicable statutory requirements, and such other criteria that the  
206 department may prescribe from time to time; and

207 (B) the project as described in the proposal, will, if certified,  
208 achieve a projected return on investment, as specified, over the  
209 period for which it receives benefits as a certified project.

210 (2) A certified life sciences project shall retain its certification  
211 for the period specified by the department in its certification deci-  
212 sion, unless such certification is revoked prior to the expiration of  
213 such specified period; provided, however, that such specified  
214 period shall be not less than 5 years (unless earlier revoked) from  
215 the date of certification nor more than:— (i) 20 years from such  
216 date; or (ii) the number of years remaining on the duration of des-  
217 ignation of the project as a certified project, including any  
218 renewals thereof, whichever is less. The department shall deter-  
219 mine each year, beginning with the year after a project receives  
220 certification and for every year for which the project receives ben-  
221 efits, whether the project has satisfactorily met the specific targets  
222 by year of the number of additional or retained full time  
223 employees, the projected salaries for those employees, and the  
224 projected taxes generated pursuant to Chapter 62 by those full  
225 time employees.

226 The certification of a project may be revoked only by the secre-  
227 tary of housing and economic development after an independent  
228 investigation and determination that representations made by the  
229 life sciences sector business in its project proposal are materially  
230 at variance with the conduct of the life sciences sector business  
231 subsequent to the certification; provided, however, that the depart-  
232 ment of business development shall review such certified life sci-  
233 ences project at least once every year; provided, further, that  
234 where the actual return on investment is less than 70 percent of  
235 the return on investment projected in the project proposal, then  
236 this shall be deemed a material variance for the purposes of a  
237 revocation determination.

238 A notice of decertification shall specify the date on which the  
239 decertification is effective, which may be the date of such notice  
240 or any earlier date on which the secretary of housing and eco-  
241 nomic development determines that the material variance com-  
242 menced. In the event of such decertification, the commissioner of  
243 revenue shall, as of the effective date of the decertification, dis-  
244 allow any credits, exemptions or other tax benefits as may have  
245 been allowed by the original certification of tax benefits pursuant

246 to this section. In addition, any credits allowed pursuant to the  
247 certification under this section shall be recaptured in a manner  
248 similar to that provided under Section 31A of Chapter 63 as would  
249 apply when property is disposed of or ceased to be in qualified use  
250 before the end of its useful life or, if applicable, before the end of  
251 the year in which the credit is to be taken. In the event that the  
252 original certification allowed sales and use tax exemptions under  
253 subsection 6(s) of Chapter 64H, the purchaser shall accrue use tax  
254 as of the date of the decertification on a portion of the sales price  
255 on which exemption was claimed that is proportionate to the  
256 remaining useful life of the property. Nothing in this section shall  
257 limit any other legal remedies available to the Commonwealth  
258 against the life sciences sector business. Annually, on or before  
259 the first Wednesday in December, the department shall file a  
260 report detailing its findings of the review of all certified life sci-  
261 ences projects that it evaluated in the prior fiscal year to the com-  
262 missioner of revenue and to the joint committee on taxation and  
263 the joint committee on economic development and emerging tech-  
264 nologies.

265 (3) The department shall evaluate and either grant or deny any  
266 project proposal within 90 days of its project proposal date.

267 (d) Eligibility for tax benefits. A certified life sciences project  
268 may be eligible for 1 or more of the tax benefits made available to  
269 life sciences projects under Chapter 62, Chapter 63 and Chapter  
270 64H only to the extent specified in a certification from the secre-  
271 tary of housing and economic development and the secretary of  
272 administration and finance. These tax benefits shall not be avail-  
273 able to any certified life sciences project unless expressly granted  
274 by the secretaries in writing. The department of business develop-  
275 ment shall estimate in writing the tax cost of extending 1 or more  
276 benefits to a proposed project before certification, as approved in  
277 writing by the commissioner of revenue, based on reasonable pro-  
278 jections of project activities and costs.

1 SECTION 8. Section 3 of Chapter 23I of the General Laws is  
2 hereby amended by striking out subsection (b) and inserting in  
3 place thereof the following subsection:—

4 (b) The Center shall be governed and its corporate powers exer-  
5 cised by a board of directors consisting of the secretary of admin-

6 istration and finance or her designee; the secretary of housing and  
7 economic development or his designee; the president of the Uni-  
8 versity of Massachusetts or his designee; 4 members who shall be  
9 appointed by the governor, 1 of whom shall be a physician  
10 licensed to practice medicine in the Commonwealth and affiliated  
11 with an academic medical center, 1 of whom shall be a chief exec-  
12 utive officer of a Massachusetts based life sciences corporation  
13 which is a member of the Massachusetts Biotechnology Council, 1  
14 of whom shall be a researcher involved in the commercialization  
15 of biotechnology, pharmaceuticals or medical diagnostic products  
16 and 1 of whom shall be a venture capitalist, with significant expe-  
17 rience in the life sciences sector. Each appointed member shall  
18 serve a term of 5 years. The secretary of housing and economic  
19 development shall serve as chair of the board. Any person  
20 appointed to fill a vacancy in the office of a member of the board  
21 shall be appointed in a like manner and shall serve for only the  
22 unexpired term of such member. Any member shall be eligible for  
23 reappointment. Any member may be removed from his appoint-  
24 ment by the governor for cause.

25 The terms of all members appointed to the board of directors of  
26 the Life Sciences Center in 2006 under the auspices of Chapter  
27 123 of the acts of 2006 shall be terminated upon the effective date  
28 of this act. All such appointed board members terminated herein  
29 shall be eligible to be reappointed by the governor.

1 SECTION 9. Subsection (c) of Section 3 of Chapter 23I is  
2 hereby amended by striking out at the beginning of the first sen-  
3 tence the word “Three” and inserting in place thereof the  
4 following word:— “Four”.

1 SECTION 10. Subsection (a) of Section 4 of Chapter 23I is  
2 hereby amended by adding after paragraph (29) the following  
3 paragraph:—

4 (30) to conduct a planning process for the implementation of  
5 the Life Sciences Center Capital Improvement Loan Act of 2007.

1 SECTION 11. Subsection (b) of Section 5 of Chapter 23I is  
2 hereby amended by striking out at the end of clause (2) the words  
3 “; provided, however, that said administrative and operational

4 expenses shall not exceed 15 per cent of the total assets of the  
5 fund in any one fiscal year;”

1 SECTION 12. Section 5 of Chapter 23I is hereby amended by  
2 striking out subsection (c) and inserting in place thereof the  
3 following subsection:—

4 (c) The fund shall be held and applied by the Center, subject to  
5 the approval of the board, to make qualified investments, grants,  
6 research and other funding, and loans, designed to advance the  
7 following public purposes:—

8 (1) to stimulate increased financing for the expansion of  
9 research and development in the areas of life sciences, nano-tech-  
10 nology, biotechnology and stem cell research in the Common-  
11 wealth by leveraging private financing for highly productive  
12 state-of-the-art research and development facilities, equipment  
13 and instrumentation and by providing financing related thereto  
14 including, without limitation, financing of the construction or  
15 expansion of such new facilities;

16 (2) to make targeted investments, including research funding,  
17 and funding for the development of devices and drugs, in the areas  
18 of life sciences, nano-technology, biotechnology and stem cell  
19 research and to spur manufacturing activities for new or existing  
20 advanced technologies and life sciences in the Commonwealth;

21 (3) to make matching grants to universities, colleges, public  
22 instrumentalities, companies and other entities to induce the fed-  
23 eral government, industry and other grant-funding sources to fund  
24 the expansion of research and development in the areas of life sci-  
25 ences, nano-technology, biotechnology and stem cell research in  
26 the Commonwealth, and to thereby serve to increase and  
27 strengthen the commercial and industrial base of the Common-  
28 wealth and the economic development and employment opportu-  
29 nities related thereto;

30 (4) to provide bridge financing to universities, colleges, public  
31 instrumentalities, companies and other entities in anticipation of  
32 the receipt of grants of the type described in clause (2) awarded or  
33 to be awarded by the federal government, industry or other  
34 sources;

35 (5) to provide fellowships and grants;

36 (6) to provide work force training grants to prepare individuals  
37 for life sciences careers; and

38 (7) to otherwise further the public purposes set forth in this act.

1 SECTION 13. Section 5 of Chapter 23I is hereby amended by  
2 adding the following subsection:—

3 (h) The Life Sciences Center and the board shall be advised by  
4 a 10-member advisory committee, whose members shall consist of  
5 individuals appointed by the governor and who are active mem-  
6 bers of the Massachusetts Life Sciences Collaborative, or any suc-  
7 cessor organization thereto. Half of the members shall initially  
8 serve for a term of 3 years and half of the members shall serve for  
9 a term of 4 years. Each member, thereafter, shall serve for a term  
10 of 3 years. Any person appointed to fill a vacancy in the office of  
11 a member of the committee shall be appointed in a like manner  
12 and shall serve for only the unexpired term of such member. Any  
13 member shall be eligible for reappointment. Any member may be  
14 removed from his appointment by the governor for cause. The  
15 members of the committee shall serve without compensation, but  
16 each member shall be entitled to reimbursement for his actual and  
17 necessary expenses incurred in the performance of his or her offi-  
18 cial duties. The duties of the advisory board shall be to advise  
19 concerning issues related to:— research in the life sciences; devel-  
20 opment of products and the efficacy of the public and private ini-  
21 tiatives to further product development in the life sciences;  
22 commercialization of biotechnology, pharmaceuticals, medical  
23 diagnostic products or such other areas within the life sciences;  
24 and any other such area as is requested by the board of the Life  
25 Sciences Center.

26 The advisory committee shall not be a state agency for the pur-  
27 poses of Chapter 268A and shall not be subject to Section 11A½  
28 of Chapter 30A or Chapter 66.

1 SECTION 14. Section 6 of Chapter 62 of the General Laws is  
2 hereby amended by adding after subsection (l) the following sub-  
3 section:—

4 (m) Life Sciences Investment Incentive Tax Credit.

5 (1) A taxpayer subject to tax under this chapter, which operates  
6 a certified life sciences project as defined in Section 63 of Chapter

7 23A, may take a credit against the taxes imposed by this chapter,  
8 to the extent provided in a certification pursuant to Section 63 of  
9 Chapter 23A, in an amount equal to 10 percent of the cost of qual-  
10 ifying property used exclusively in the Commonwealth in such  
11 project. Qualifying property shall be tangible personal property  
12 and other tangible property including buildings and structural  
13 components of buildings acquired by purchase, as defined under  
14 Section 179(d) of the Code, as amended and in effect for the tax-  
15 able year, but not including property that is taxable under Chapter  
16 60A, provided, however, that such property must be depreciable  
17 under Section 167 of the Code and have a useful life of 4 years or  
18 more. If such property is disposed of or ceases to be in qualified  
19 use before the end of its useful life or before the end of the year in  
20 which the credit is to be taken, the recapture and related provi-  
21 sions of subsection (e) of Section 31A of Chapter 63 shall apply.

22 A taxpayer taking a credit allowed under this subsection (m)  
23 may not take the credit allowed by subsection (g) except to such  
24 extent, not to exceed 2 percent of the cost of any qualifying prop-  
25 erty, as may be provided in a certification pursuant to Section 63  
26 of Chapter 23A.

27 A credit is allowed under this Section only to the extent that the  
28 taxpayer files the application with the department of business  
29 development, in a form as may be determined by the department,  
30 within 1 year after the initial project certification pursuant to  
31 Section 63 of Chapter 23A.

32 The department may certify that property eligible for the credit  
33 is a certified life sciences project as defined in Section 63 of  
34 Chapter 23A, and that the certified life sciences project reason-  
35 ably satisfies the return on investment projections specified in the  
36 original project proposal as defined in Section 63 of Chapter 23A.  
37 Based upon the information provided in the application and its  
38 own independent investigation, the department shall determine  
39 whether the certified life sciences project is in compliance with  
40 the definition of certified life sciences project and whether the  
41 project has a reasonable chance of completing the return on  
42 investment as advanced in the initial proposal as certified by the  
43 department. If the department determines that the certified life sci-  
44 ences project is no longer in compliance, then the secretary of  
45 housing and economic development shall revoke certification of



46 the project as provided in section 63 of Chapter 23A and shall  
47 provide notification of decertification to the commissioner of rev-  
48 enue. Nothing in this Section shall limit the authority of the com-  
49 missioner to make adjustments to a taxpayer's liability upon audit.  
50 Nothing in this Section shall limit any other legal remedies avail-  
51 able to the commissioner of revenue or the Commonwealth  
52 against the life sciences sector business.

53 (2) Any taxpayer entitled to a credit under this Section for any  
54 taxable year may carry over and apply to its tax for any 1 or more  
55 of the next succeeding 10 taxable years, the portion, as reduced  
56 from year to year, of those credits which exceed the tax for the  
57 taxable year; provided, however, that in no event shall the tax-  
58 payer apply the credit to its tax for any taxable year beginning  
59 more than 10 years after the certified life sciences project ceases  
60 to qualify as such under the provisions of Chapter 23A.

61 (3) The commissioner of revenue shall promulgate such rules  
62 and regulations as are necessary to implement the provisions of  
63 this section. Such rules and regulations may provide the adjust-  
64 ment of intercompany prices and elimination of intercompany  
65 transactions to ensure that all amounts upon which the credit is  
66 based reasonably reflect fair market value. In addition, such rules  
67 and regulations shall include provisions to prevent the generation  
68 of multiple credits with respect to the same property.

69 (4) In the event that such credit allowed to a certified life sci-  
70 ences project under this subsection, or such credit as may be  
71 allowed under subsection (g) as limited in this subsection, exceeds  
72 the tax otherwise due under Chapter 62, the balance of such credit  
73 shall, at the option of the taxpayer, be refundable to the taxpayer  
74 for the taxable year in which qualified property giving rise to that  
75 credit is placed in service. If such credit balance is refunded to the  
76 taxpayer, then the credit carryover provisions of paragraph (2),  
77 and of subsection (g)(2), do not apply.

1 SECTION 15. Section 6 of Chapter 62 of the General Laws is  
2 hereby amended by adding after subsection (m), the following  
3 subsection:—

4 (n) Certified Life Sciences Project User Fee Credit.

5 (1) As used in this Section, the following words shall, unless  
6 the context otherwise requires, have the following meanings:—

7 “Primarily”, more than 50 percent.

8 “Research and development costs”, in-house research expenses  
9 within the meaning of Section 41(b)(2) of the Code.

10 “User fees”, the monetary amount actually paid by a certified  
11 life sciences project to the U.S.F.D.A. that constitutes the fee due  
12 upon the submission of a human drug application or supplement  
13 pursuant to 21 U.S.C. § 379h(a)(1) for a human drug, the research  
14 and development costs of which, were primarily incurred in the  
15 Commonwealth.

16 “U.S.F.D.A.”, the United States Food and Drug Administration.

17 (2) Except as otherwise limited by paragraph (e), there may be  
18 allowed to any certified life sciences project, as defined by  
19 Section 63 of Chapter 23A, as a refundable credit against the tax  
20 liability imposed under this chapter an amount equal to 100 per-  
21 cent of the cost of user fees paid by such certified life sciences  
22 project, to the extent provided in a certification pursuant to  
23 Section 63 of Chapter 23A.

24 (3) A certified life sciences project shall claim the credit in the  
25 taxable year in which its application for the licensure of an estab-  
26 lishment to manufacture the human drug in the Commonwealth is  
27 approved by the U.S.F.D.A.

28 (4) A credit allowed under this Section may be taken only after  
29 the taxpayer completes an application signed by an authorized  
30 representative of the applicant, and files the application with the  
31 department of business development within 1 year after the initial  
32 project certification pursuant to Section 63 of Chapter 23A.

33 (5) In the event that such credit allowed to a certified life sci-  
34 ences project exceeds the tax otherwise due under Chapter 62, the  
35 balance of that credit shall be refundable to the taxpayer for the  
36 taxable year in which the credit is claimed.

37 (6) The deduction from gross income that may be taken with  
38 respect to any expenditures qualifying for the credit under this  
39 Section shall be disallowed to the extent of the credit.

40 (7) Only user fees paid by a certified life sciences project to the  
41 U.S.F.D.A. on or after the effective date of this Section are eli-  
42 gible for the credit.

1 SECTION 16. Section 30 of Chapter 63 is hereby amended by  
2 adding after paragraph 15 the following paragraph:—

3 (16) Notwithstanding the last sentence in paragraph (5)(b) of  
4 this section, losses sustained in any taxable year by a certified life  
5 sciences project may, to the extent provided in a certification pur-  
6 suant to Section 63 of Chapter 23A, be carried forward for not  
7 more than 15 years and may not be carried back.

1 SECTION 17. Chapter 63 of the General Laws is hereby  
2 amended by adding after section 31L the following section:—

3 Section 31M. Certified Life Sciences Project User Fee Credit.

4 (a) As used in this Section, the following words shall, unless  
5 the context otherwise requires, have the following meanings:—

6 “Primarily”, more than 50 percent.

7 “Research and development costs”, in-house research expenses  
8 within the meaning of Section 41(b)(2) of the Code.

9 “User fees”, the monetary amount actually paid by a certified  
10 life sciences project to the U.S.F.D.A. that constitutes the fee due  
11 upon the submission of a human drug application or supplement  
12 pursuant to 21 U.S.C. § 379h(a)(1) for a human drug, the research  
13 and development costs of which, were primarily incurred in the  
14 Commonwealth.

15 “U.S.F.D.A.”, the United States Food and Drug Administration.

16 (b) Except as otherwise limited by paragraph (e), there shall be  
17 allowed to any certified life sciences project, as defined by  
18 Section 63 of Chapter 23A, as a refundable credit against the tax  
19 liability imposed under this chapter an amount equal to 100 per-  
20 cent of the cost of user fees paid by such certified life sciences  
21 project, to the extent provided in a certification pursuant to  
22 Section 63 of Chapter 23A.

23 (c) A certified life sciences project shall claim the credit in the  
24 taxable year in which its application for the licensure of an estab-  
25 lishment to manufacture the human drug in the Commonwealth is  
26 approved by the U.S.F.D.A.

27 (d) A credit allowed under this section may be taken only after  
28 the taxpayer completes an application signed by an authorized  
29 representative of the applicant, and files the application with the  
30 department of business development within 1 year after the initial  
31 project certification pursuant to Section 63 of Chapter 23A.

32 (e) The credit allowed may reduce the excise due under section  
33 32(b), or 39(b). The credit allowed to a certified life sciences pro-

34 ject is not subject to the provisions of Section 32C. In the event  
35 that such credit allowed to a certified life sciences project exceeds  
36 the excise otherwise due under Section 32(b) or Section 39(b) of  
37 Chapter 63, the balance of that credit shall be refundable to the  
38 taxpayer for the taxable year in which the credit is claimed.

39 If a certified life sciences project files as a member of a com-  
40 bined group and applies its excess credit against the excise of  
41 another group member, then the credit as applied to corporations  
42 other than such certified life sciences project is not subject to the  
43 provisions of Section 32C and may reduce to zero the excise due  
44 under Section 32(b), or 39(b) and under any act in addition  
45 thereto. In the event that such credit allowed to a certified life sci-  
46 ences project that is applied against the excise liability of such  
47 other corporations exceeds the excise otherwise due to such cor-  
48 porations under Chapter 63, the balance of that credit shall be  
49 refundable to the taxpayer for the taxable year in which the credit  
50 is claimed.

51 (f) For purposes of Section 30, the deduction from gross  
52 income that may be taken with respect to any expenditures quali-  
53 fying for the credit under this section is disallowed to the extent of  
54 the credit.

55 (g) Only user fees paid by a certified life sciences project to the  
56 U.S.F.D.A. on or after the effective date of this section are eligible  
57 for the credit.

1 SECTION 18. Subsection (f) of Section 38 of Chapter 63 of the  
2 General Laws is hereby amended by adding after subparagraph (5)  
3 the following subparagraph:—

4 (6) To the extent provided in a certification pursuant to Section  
5 63 of Chapter 23A, a certified life sciences project, as defined in  
6 Section 63 of Chapter 23A, is deemed to be taxable in the state of  
7 the purchaser if the property of the project is manufactured in the  
8 Commonwealth and delivered or shipped to a purchaser in another  
9 state.

1 SECTION 19. Section 38C of Chapter 63 of the General Laws  
2 is hereby amended by adding the following sentence at the end  
3 thereof:—

4 A certified life sciences project shall, to the extent provided in  
5 a certification pursuant to Section 63 of Chapter 23A, be deemed  
6 to be a research and development corporation for purposes of  
7 exemptions under Chapters 64H and 64I.

1 SECTION 20. Section 38M of Chapter 63 of the General Laws  
2 is hereby amended by adding after subsection (i) the following  
3 subsection:—

4 (j) To the extent provided in a certification pursuant to Section  
5 63 of Chapter 23A, in the event that the credit allowed under this  
6 Section is allowed with respect to a certified life sciences project  
7 and the credit that may be claimed by a taxpayer under this  
8 Section exceeds the amount that may otherwise be allowed under  
9 this section for a taxable year, the balance of that credit attribut-  
10 able to a certified life sciences project shall, at the option of the  
11 taxpayer and to the extent provided in such certification, be  
12 refundable to the taxpayer for the taxable year. If such credit bal-  
13 ance is refunded to the taxpayer, then the credit carryover provi-  
14 sions of subsection (f) shall not apply.

1 SECTION 21. Chapter 63 of the General Laws is hereby  
2 amended by adding after Section 38T the following section:—

3 Section 38U. Life Sciences Investment Incentive Tax Credit.

4 (a) A corporation subject to the excise imposed under this  
5 Chapter, which operates a certified life sciences project as defined  
6 in Section 63 of Chapter 23A, may take a credit against the excise  
7 imposed by this chapter, to the extent provided in a certification  
8 pursuant to Section 63 of Chapter 23A, in an amount equal to 10  
9 percent of the cost of any qualifying property used exclusively in  
10 the Commonwealth in such project. Qualifying property shall be  
11 tangible personal property and other tangible property including  
12 buildings and structural components of buildings acquired by pur-  
13 chase, as defined under Section 179(d) of the Code, as amended  
14 and in effect for the taxable year, but not including property that is  
15 taxable under Chapter 60A, provided, however, that such property  
16 must be depreciable under Section 167 of the Code and have a  
17 useful life of 4 years or more. If such property is disposed of or  
18 ceases to be in qualified use before the end of its useful life or  
19 before the end of the year in which the credit is to be taken, the

20 recapture and related provisions of subsection (e) of Section 31A  
21 of Chapter 63 shall apply.

22 A credit is allowed under this Section only to the extent that the  
23 taxpayer files the application with the department of business  
24 development, in a form as may be determined by the department,  
25 within 1 year after the initial project certification pursuant to  
26 Section 63 of Chapter 23A.

27 The credit allowed under this Section may be taken by an eli-  
28 gible corporation; provided, however, that neither credit allowed  
29 by Section 31A or Section 31H is taken by such corporation; and  
30 provided further that the credit allowed by Section 38N shall not  
31 be taken except to such extent, not to exceed 2 percent of the cost  
32 of any qualifying property, as may be provided in a certification  
33 pursuant to Section 63 of Chapter 23A.

34 The department may certify that property eligible for the credit  
35 is a certified life sciences project as defined in Section 63 of  
36 Chapter 23A, and that the certified life sciences project reason-  
37 ably satisfies the return on investment projections specified in the  
38 original project proposal. Based upon the information provided in  
39 the application and its own independent investigation, the depart-  
40 ment shall determine whether the certified life sciences project is  
41 in compliance with the definition of certified life sciences project  
42 and whether the project has a reasonable chance of completing the  
43 return on investment as advanced in the initial proposal as certi-  
44 fied by the department. If the department determines that the certi-  
45 fied life sciences project is no longer in compliance, then the  
46 secretary of housing and economic development shall revoke cer-  
47 tification of the project as provided in Section 63 of Chapter 23A  
48 and shall provide notification of decertification to the commis-  
49 sioner of revenue. Nothing in this Section shall limit the authority  
50 of the commissioner to make adjustments to a corporation's lia-  
51 bility upon audit. Nothing in this Section shall limit any other  
52 legal remedies available to the commissioner of revenue or the  
53 Commonwealth against the life sciences sector business.

54 (b) The credit allowed by this Section shall not be subject to the  
55 provision of Section 32C.

56 (c) In the case of a corporation that is subject to a minimum  
57 excise under any provision of this chapter, the amount of the

58 credit allowed by this section shall not reduce the excise to an  
59 amount less than such minimum excise.

60 (d) Any corporation entitled to a credit under this section for  
61 any taxable year may carry over and apply to its excise for any 1  
62 or more of the next succeeding 10 taxable years, the portion, as  
63 reduced from year to year, of those credits which were not  
64 allowed by paragraph (c) or which exceed the excise for the tax-  
65 able year; provided, however, that in no event shall the corpora-  
66 tion apply the credit to its excise for any taxable year beginning  
67 more than 10 years after the certified life sciences project ceases  
68 to qualify as such under the provisions of Chapter 23A.

69 (e) In the case of corporations filing a combined return of  
70 income under Section 32B, a credit generated by an individual  
71 member corporation under the provisions of this Section shall first  
72 be applied against the separately determined excise attributable to  
73 that member, subject to the limitations of paragraph (c). A  
74 member corporation with an excess credit may apply its excess  
75 credit against the excise of another group member, to the extent  
76 that such other member corporation can use additional credits  
77 under the limitation of paragraph (c).

78 Unused, unexpired credits generated by member corporations  
79 shall be carried over from year to year by the individual corpora-  
80 tion that generated the credit.

81 (f) The commissioner of revenue shall promulgate such rules  
82 and regulations as are necessary to implement the provisions of  
83 this Section. Such rules and regulations may provide the adjust-  
84 ment of intercompany prices and elimination of intercompany  
85 transactions to ensure that all amounts upon which the credit is  
86 based reasonably reflect fair market value. In addition, such rules  
87 and regulations shall include provisions to prevent the generation  
88 of multiple credits with respect to the same property.

89 (g) In the event that such credit allowed to a certified life sci-  
90 ences project under this Section, or such credit as may be allowed  
91 under Section 38N of this chapter as limited in this subsection,  
92 exceeds the excise otherwise due under Chapter 63, the balance of  
93 such credit shall, at the option of the taxpayer, be refundable to  
94 the taxpayer for the taxable year in which qualified property  
95 giving rise to that credit is placed in service. If such credit balance

96 is refunded to the taxpayer, then the credit carryover provisions of  
97 paragraph (d), and of Section 38N of this chapter, do not apply.

1 SECTION 22. Section 42B of Chapter 63 of the General Laws  
2 is hereby amended by adding the following sentence at the end  
3 thereof:—

4 A certified life sciences project shall, to the extent provided in  
5 a certification pursuant to Section 63 of Chapter 23A, be deemed  
6 to be a research and development corporation for purposes of  
7 exemptions under Chapters 64H and 64I.

1 SECTION 23. Section 6 of Chapter 64H of the General Laws is  
2 hereby amended by adding after subsection (ww) the following  
3 subsection:—

4 (xx) For purposes of this paragraph the term “utility support  
5 systems” means all areas of utility support systems including, but  
6 not limited to, site, civil, mechanical, electrical and plumbing sys-  
7 tems.

8 Sales of tangible personal property purchased for a certified life  
9 sciences project, as defined by Section 63 of Chapter 23A, for use  
10 in connection with the construction, alteration, remodeling, repair,  
11 or remediation of the research, development or manufacturing  
12 facilities and the utility support systems provided that such facili-  
13 ties and utility support systems are constructed, altered remod-  
14 eled, repaired or remediated in furtherance of a certified life  
15 sciences project. This Section shall apply only to the extent pro-  
16 vided in a certification pursuant to Section 63 of Chapter 23A.

17 Such purchases made on or after the effective date of this  
18 Section shall only be eligible for this exemption.